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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,554	07/20/2001	Robert W. Guidry	42327.00004	2567

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EXAMINER

WINTER, JOHN M

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/909,554

**Applicant(s)**

GUIDRY, ROBERT W.

**Examiner**

John M Winter

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-81 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 68,69,74,75,80 and 81 is/are allowed.
- 6) ☒ Claim(s) 29,30,66,67,70-73 and 76-79 is/are rejected.
- 7) ☒ Claim(s) 31-65 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-28 drawn to transportation facility access including authentication, classified in class 705 subclass 13.
- II. Claims 29-81, drawn to conducting secure transactions including authentication, classified in class 705 subclass 67.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because invention II does not require a verification device. The subcombination has separate utility such as being a tokenless system.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Examiner notes that it would be a serious burden to search all two inventions given their separate status in the art as noted above. The requirement is deemed proper and therefore made FINAL.

Via paper file on October 30, 2004 the applicant has elected with traverse the examination of invention II, directed towards claims 29-81. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-28 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claims 29-81 have been examined.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29, 30, 66, 67, 70-73, and 76-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopkins (US Patent 5,757,918 ) in view in view of Burger (US Patent No 6,219,439)

As per claim 29,

Hopkins ('918) discloses a method for controlling access to sites of a transportation network, comprising the steps of:

verifying pre-determined characteristics of a transporting entity at first remote site, (column 2, lines 18-23) a positive verification providing the transporting entity access to the first remote site. (column 1, lines 21-26)

verifying pre-determined characteristics of the transporting entity and certain pre-determined first remote site transaction data at a second remote site, (column 2, lines 18-23) a positive verification providing the transporting entity access to the second remote site. (column 1, lines 21-26)

Hopkins ('918) discloses the claimed invention except for a second remote site, it would have been obvious to one having ordinary skill in the art at the time the invention was made use a second remote site, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Hopkins ('918) does not explicitly disclose a recording pre-determined first remote site transaction data. Burger ('439) discloses a recording pre-determined first remote site transaction data. (Column 8, lines 5-9) It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the Hopkins ('918) method with the Burger ('439) method in order to keep a log of access to a site.

Claim 70 is parallel with claim 29 and is rejected for at least the same reasons.

As per claim 30,

Hopkins ('918) discloses a method for managing and monitoring a transportation network, comprising the steps of:

verifying pre-determined characteristics of a transporting entity at first remote site, (column 2, lines 18-23) a positive verification providing the transporting entity access to the first remote site. (column 1, lines 21-26)

verifying pre-determined characteristics of the transporting entity and certain pre-determined first remote site transaction data at a second remote site, (column 2, lines 18-23) a positive verification providing the transporting entity access to the second remote site. (column 1, lines 21-26)

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Hopkins ('918) discloses the claimed invention except for a second remote site, it would have been obvious to one having ordinary skill in the art at the time the invention was made use a second remote site, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Hopkins ('918) does not explicitly disclose a recording pre-determined first remote site transaction data; evaluating the first remote site transaction data with the second remote site transaction data creating statistics used to manage and monitor the transportation network. Burger ('439) discloses a recording pre-determined first remote site transaction data; evaluating the first remote site transaction data with the second remote site transaction data creating statistics used to manage and monitor the transportation network. (Column 8, lines 5-9) It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the Hopkins ('918) method with the Burger ('439) method in order to keep a log of access to a site.

Claims 66,67,71,72,73, and 76-79 are in parallel with claim 30 and are rejected for at least the same reasons.

#### ***Allowable Subject Matter***

Claims 68,69,74,75 80 and 81 are allowable over the prior art record.

Claims 31-65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Winter whose telephone number is (703) 305-3971. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on (703)305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

JMW

January 10, 2005



JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600